

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the IRON WORKERS
TRI-STATE WELFARE FUND,
MID-AMERICAN PENSION FUND,
and MID-AMERICA SUPPLEMENTAL
MONTHLY ANNUITY FUND

Plaintiffs,

Case No. 08 C 626

Judge Leinenweber

V.

MAGNUM STEEL ERECTORS, INC.,

Defendant.

MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to enter Judgment by Default according to Fed. R. Civ. P. 55 for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on January 29, 2008 and the summons and complaint was served on registered agent, L. Patrick Power via office manager, Chris Schmitz on February 13, 2008 via the Process Server. **(Exhibit A, affidavit of service)**

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P.

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant submitted the contribution reports but failed to submit the ERISA contributions for its iron worker employees. The Defendant also failed to submit reports for January and February 2008 so an average estimate was performed for these two months at \$10,260.10. The total amount owed for these iron worker employees is \$62,709.70 for the months of August 2007 through February 2008. **(Exhibit B, affidavit of David J. Jansen)**

5. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$2,540.92 for the period August 2007 through February 2008 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). **(Exhibit B)**

6. The Defendant owes the sum of \$1,938.75 for necessary and reasonable attorney fees and costs of \$423.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). **(Exhibit C, affidavit of Daniel P. McAnally)**

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$67,684.37.

Respectively submitted,

s/ DANIEL P. McANALLY

Attorney for the Trustees of
the Iron Workers' Tri-State
Welfare Fund et al.

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